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2 THE HONORABLE RICHARD A. JONES
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

9 ABDIQAFAR WAGAFE, *et al.*, on behalf
10 of themselves and others similarly situated,

11 Plaintiffs,

12 v.

13 DONALD TRUMP, President of the
United States, *et al.*,

14 Defendants.

15
16 No. 2:17-cv-00094-RAJ

17 **PLAINTIFFS' SUPPLEMENTAL BRIEF
IN SUPPORT OF PLAINTIFFS'
MOTION FOR SANCTIONS**

18 **Note on Motion Calendar: March 27, 2019**

19 The Court's February 27, 2019 Order (Dkt. 223) directed Plaintiffs to file a supplemental
20 brief detailing the fees incurred in preparing and filing their Motion for Sanctions. Plaintiffs
21 request the Court award \$73,476.08 for counsel's work on Plaintiffs' Motion for Sanctions.
Plaintiffs arrived at this figure using the lodestar method—which carries a strong presumption
that the amount requested is a reasonable fee—and is supported by attorney declarations
included herewith.

22 **1. The lodestar method establishes a presumptively reasonable fee.**

23 To determine whether the requested fees are reasonable, the court applies the lodestar
24 method. *See Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983). The lodestar is determined by
25 multiplying a reasonable hourly rate or rates by the number of hours reasonably expended in the
26 litigation. *Id.* There is a “strong presumption” that the lodestar amount constitutes a “reasonable”

1 fee. *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 554 (2010); *see also* Dkt. 223 at 10 (“The
2 lodestar figure is presumptively a reasonable fee award.”). Thus, “it should only be enhanced or
3 reduced in rare and exceptional cases.” *Fischer v. SJB-P.D. Inc.*, 214 F.3d 1115, 1119 n.4 (9th
4 Cir. 2000) (internal quotation marks omitted).

5 **2. The Court has already determined that counsel’s rates are reasonable.**

6 The Court reviewed the requested rates for Plaintiffs’ attorneys and found them
7 reasonable in its Order granting in part Plaintiffs’ Motion for Sanctions. *See* Dkt. 223 at 11.

8 In reaching that determination, the Court relied on declarations
9 that the rates identified are the normal hourly rates, the experience
10 of Plaintiffs’ attorneys, the Declaration of Carol Sobel (Dkt. # 138)
11 to the extent it addresses the rates of attorneys outside of this
District, Defendant[s]’ lack of stated opposition to the
reasonableness of the rates, and on its familiarity with legal fees in
the Western District of Washington at the relevant time period.

12 *Id.*; *see also* Declarations of Carol Sobel (Dkt. 138), Hugh Handeyside (Dkt. 139), Matt Adams
13 (Dkt. 141), Nicholas P. Gellert (Dkt. 142), Sameer Ahmed (Dkt. 143), Stacy Tolchin (Dkt. 144),
14 and Trina Realmuto (Dkt. 145) (setting forth the attorneys’ skill, experience, and the rate
15 structure employed).

16 Nothing has changed since the Court’s February 27, 2019 Order for the Court to now find
17 the rates unreasonable. In awarding fees related to Plaintiffs’ Motion to Compel, this Court
18 applied the 2017 rates for the work that was done in that year. Plaintiffs request that the Court
19 apply the 2018 rates because all of counsel’s work in preparing and filing the Motion for
20 Sanctions was completed in 2018. *Cf. Gates v. Deukmejian*, 987 F.2d 1392, 1406 (9th Cir. 1992)
21 (“[D]istrict courts have the discretion to compensate prevailing parties for any delay in the
22 receipt of fees by awarding fees at current rather than historic rates in order to adjust for inflation
23 and loss of the use [of] funds.”).

1 **3. The time Plaintiffs' counsel spent litigating the motion and the fee award requested
2 are reasonable.**

3 Plaintiffs' counsel collectively spent 132.25 hours to prepare and file the Motion for
4 Sanctions and the reply brief in support of the Motion.¹ The supplemental declarations of Matt
5 Adams, Sameer Ahmed, Nicholas P. Gellert, Hugh Handeyside, Trina Realmuto, and Stacy
6 Tolchin, submitted herewith, attach the documentation of the time spent strategizing, preparing,
7 and filing the Motion for Sanctions. *See Hensley*, 461 U.S. at 433 (explaining that the party
8 seeking fees bears the burden of documenting the hours expended in the litigation and must
9 submit evidence supporting the fee request.); *Thomas v. Cannon*, No. 3:15-05346 BJR, 2018 WL
10 1517662, at *1 (W.D. Wash. Mar. 28, 2018) (“As a general rule, the court should defer to the
11 winning lawyer’s professional judgment as to how much time he was required to spend on the
12 case.” (internal quotation marks omitted)).

13 Plaintiffs’ request \$73,476.08 for 132.25 hours of work at hourly rates of \$415.36 to
14 \$815.62. The requested fee is presumptively reasonable because it is based on the lodestar
15 method. The fee award is also reasonable “in light of the complicated and difficult nature of the
16 case,” Dkt. 223 at 11, the complexities related to the relief sought in Plaintiffs’ Motion for
17 Sanctions, the parties’ thorough briefing, and the effect of the sanctions motion on Defendants’
18 conduct. As the Court observed, it took multiple motions, including the Motion for Sanctions, for
19 Defendants to offer an explanation for their delayed privilege assertions “that passed muster.” *Id.*
20 at 9. Despite multiple Court orders directing Defendants to produce discovery, it was not until
21 Defendants’ response to the sanctions motion that Defendants articulated “a credible basis for
22 their privilege assertions as to [the Named Plaintiffs] unredacted A-Files” *Id.*

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25 ¹ Other attorneys at Perkins Coie (besides Nicholas P. Gellert, David Perez, and Laura
26 Hennessey) contributed to Plaintiffs’ Motions for Sanctions, but Plaintiffs have elected to not
 include their work in the request for a fee award relating to the motion. Plaintiffs may seek
 recovery of fees for such other Perkins Coie attorneys as may be appropriate in the future.

1 The fee amount represents the sum of the hours and fees claimed in the Supplemental
 2 Declarations as follows:

Timekeeper	2018 Hourly Rate	Hours Worked	Total
Hugh Handeyside	\$676.85	5.9	\$3,993.42
Matt Adams	\$815.62	8.1	\$6,606.52
Nicholas P. Gellert	\$630	8.1	\$5,103
David Perez	\$575	20.3	\$11,672
Laura Hennessey	\$490	73.1	\$35,819
Sameer Ahmed	\$600.38	8.25	\$4,953.14
Stacy Tolchin	\$676.85	5.5	\$3,722.68
Trina Realmuto	\$815.62	0.9	\$734.06
Kristin Macleod-Ball	\$415.36	2.1	\$872.26
TOTAL:		132.25	\$73,476.08

14 **4. Conclusion**

15 Plaintiffs respectfully request the Court award \$73,476.08; this figure represents the
 16 reasonable attorneys' fees incurred in litigating Plaintiffs' Motion for Sanctions. Plaintiffs further
 17 request that this amount, along with the \$50,507.92 the Court has already ordered Defendants
 18 pay in connection with Plaintiffs' Motion to Compel, *see* Dkt. 223, be paid within 30 days of the
 19 Court's order to the Perkins Coie Trust Account.

1 Respectfully submitted,

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16 DATED: March 13, 2019

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22 *Counsel for Plaintiffs*

CERTIFICATE OF SERVICE

I certify that on the date indicated below, I caused service of the foregoing document via the CM/ECF system, which will automatically send notice of such filing to all counsel of record.

DATED this 13th day of March, 2019, at Seattle, Washington.

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